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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,352	02/28/2002	Gianfranco Castrignano		6566

25542 7590 02/13/2004

CNH INTELLECTUAL PROPERTY LAW DEPARTMENT
CASE NEW HOLLAND INC.
P.O. BOX 1895
MS 641
NEW HOLLAND, PA 17557

EXAMINER

LUM, LEE S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,352

Applicant(s)

CASTRIGNANO, GIANFRANCO

Examiner

Lee Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. An Amendment was filed 11/18/03. However, it is noted that it is in an improper form because of the (incorrect) status identifier "(allowed)". The proper identifiers include: original, amended, cancelled, twice amended, etc.
2. The status of the Office Action mailed 7/24/03 was *Ex parte Quayle*. However, this designation was erroneous because of the multitude of 112/1st and 2nd issues, and drawing issues, existing in the disclosure at that time. This Office Action is nonfinal because it is believed that several issues remain. Examiner apologizes for any inconvenience.
3. The Abstract is objected to because "varying the size of the crossmember" is not an accurate description of the invention.
4. The drawings are objected to because of the following issues:
 - a. Fig 1 does not depict alternate view line "II-II", as described in the "Descriptions of the Drawings", paragraph 14.
 - b. The "inner ring 47" cannot be discerned in the figures. Also, in figs 4-6, the element labeled "47" (still) appears to be the "spherical head 48".

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 3611

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

- The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In Claim 1, and paragraphs 25-26 of the spec, "varying the length of said crossmember" is unclear because it is maintained that the length of the crossmember cannot "vary", although its position does.

In paragraph 24, the "inner ring 47...which is able to slide" is unknown because it cannot be discerned in the drawings.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1, "varying the length of said crossmember" is unclear because it is maintained that the length of the crossmember cannot "vary", although its position does.

Also, in Claims 3, 6 and 7, "the relative said second hinge axis/carriage" is unclear because "said" is unnecessary (grammatically "awkward"), and renders the related structure unclear.

Art Unit: 3611

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, **Claims 1 and 2** are rejected under 35 U.S.C. 102(b) as being anticipated by Bloomstrom et al 3889769.

As best understood, Bloomstrom discloses a crawler vehicle having

Frame 16 along a longitudinal axis (inherent),

Two track carriages 18,

First connector 68 interposed between each carriage and frame to permit oscillation between these components about a first axis (unidentified, parallel to connector 68) perpendicular to the longitudinal axis,

Connecting crossmember 58 parallel to the first axis,

Second connector 62 interposed between the crossmember and each carriage to permit oscillation between these two components about a second axis (unidentified, parallel to connector 62) perpendicular to the first axis, and,

Mechanism, comprising elements 62/64/66, for varying the length (as best understood) of the crossmember between two values as the carriages oscillate,

The mechanism forming a part of the second connector.

8. As best understood, **Claims 3-14** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and all 112 rejections resolved.

Art Unit: 3611

9. RESPONSE TO REMARKS

Examiner thanks Applicant for his thorough response to the first Office Action. Most issues are resolved, but some remain.

First, in the Abstract, spec and Claim 1 (as indicated above), the language "varying the length of said crossmember" remains unclear because it is maintained that the length of the crossmember cannot "vary", although its POSITION does. This is, in fact, conceded by Applicant in his remarks on p 11.

Second, it is maintained that the "inner ring 47" is unknown because it is NOT depicted in the drawings, despite Applicant's remarks on p 9. "Outer ring 45" is clearly discernible, but the "inner ring" is not.


10. The prior art made of record, and not relied upon, is pertinent to this disclosure: Yoshida et al 6378635, Oertley 5358064, 5333710, smith 4483406, Sato et al 4364443, Persson 3974891.

11. Communication with the Examiner and USPTO

Any inquiry concerning this communication should be directed to Ms. Lum at (703) 305-0232, M-F, 9-6. Our fax numbers is (703) 872-9306. Any inquiry of a general nature, or relating to the status of this application/proceeding, should be directed to Customer Assistance at (703) 306-5771.

Ms. Lee S. Lum
Examiner
1/30/04




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